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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,251	05/31/2001	Holgers Eggers	MO-6276/WW-5	4221

7590 03/30/2004

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EXAMINER

KRUER, KEVIN R

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/807,251	Applicant(s) EGGERS ET AL.	
	Examiner Kevin R Kruer	Art Unit 1773	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: NONE.

Claim(s) objected to: NONE.

Claim(s) rejected: 1-6.

Claim(s) withdrawn from consideration: 7-9.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Advisory Action

Applicant's amendments filed February 26, 2004 have been fully considered but are not persuasive. The proposed amendments will not be entered because they raise new issues that would require further search and/or consideration. The proposed amendment would introduce the limitation that the filler comprises "from 0.01 to 1wt% relative to the overall weight" of the layer. Said limitation has not previously been considered. The proposed amendment would also broaden the scope of the claim by changing the transitional phrase from "consisting of" to "comprised of." Such a change in scope would require further search and consideration. Furthermore, the proposed amendment will not be entered because it does not place the application in better condition for appeal by materially reducing and/or simplifying the issues on appeal.

Applicant argues that Maxfield fails to anticipate the claimed particle size of the nucleating filler. The examiner respectfully disagrees. Maxfield teaches a fiber (herein understood to read on the claimed "nucleating filler") having a particle size of less than 10 nanometers (col 3, lines 5+).

With regard to the size of the spherulites, the examiner maintains the position that the claimed size of the spherulites is latent to the composition taught in Maxfield since the composition comprises the same matrix and the nucleating filler in the same relative amounts. Applicant argues that the spherulites in the film are obtained through the use of special processing conditions during the film forming process (page 12, line 13-page 13, line 5 of the specification). However, said film forming process is not

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claimed. Furthermore, Applicant has failed to show that the film in Maxfield will fail to have the claimed spherulite diameter.

Applicant argues that the rejection based upon the teachings of Goehring in view of Maxfield should be withdrawn because Maxfield fails to anticipate the claimed polyamide film. The examiner respectfully disagrees, and maintains the rejection for the reasons stated above.

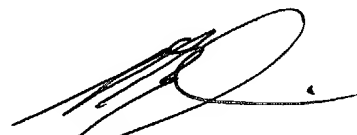
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin R Kruer whose telephone number is 571-272-1510. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Thibodeau can be reached on 571-272-1516. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

K-RK

Kevin R. Kruer
Patent Examiner-AU 1773


Ramsey Zacharia
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